

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

9 SCOTT H. BEDARD,)
10 Petitioner,) 3:08-cv-00294-LRH-RAM
11 vs.)
12 E.K. McDANIEL, *et al.*,) ORDER
13 Respondents.)
14 /

15 This action proceeds on a first amended petition for writ of habeas corpus pursuant to 28
16 U.S.C. § 2254, by petitioner Scott H. Bedard, a Nevada prisoner represented by counsel. Petitioner
17 has filed a motion for leave to conduct discovery and for court order to obtain requested documents
18 and evidence (docket #26). Respondents have filed a stipulation for discovery (docket #32).

19 Rule 6 of the Rules Governing Section 2254 Cases in the United States District Courts allows
20 a party to obtain discovery, through the procedures outlined in the Federal Rules of Civil Procedure
21 when petitioner shows good cause for the discovery. A judge may grant leave to conduct discovery
22 in the exercise of his discretion and for good cause. *Jones v. Wood*, 114 F.3d 1002, 1009 (9th Cir.
23 1997). The Supreme Court has construed Rule 6, holding that if through “specific allegations before
24 the court,” the petitioner can “show reason to believe that the petitioner may, if the facts are fully
25 developed, be able to demonstrate that he is ... entitled to relief, it is the duty of the court to provide
26 the necessary facilities and procedures for an adequate inquiry.” *Bracy v. Gramley*, 520 U.S. 899,
27 908-09 (1997) (quoting *Harris v. Nelson*, 394 U.S. 286, 300 (1969)).

28 Petitioner seeks an order authorizing his to serve subpoenas to obtain (1) access to all

1 evidence held in the evidence vault of the Eighth Judicial District Court introduced during Bedard's
2 trial, and any forensic evidence to be released to an expert employed by petitioner's counsel, and (2)
3 access to all evidence still in the possession of Las Vegas Metropolitan Police Department collected
4 in petitioner's case, including forensic evidence and reports, lab reports, DNA reports, police reports,
5 footwear impression evidence, photographs, fingerprint exemplars and other evidence, and any
6 forensic evidence to be release to an expert employed by petitioner's counsel. Respondents filed a
7 stipulation to the motion for leave to conduct discovery, stating that they do not object to petitioner's
8 request for the named discovery.

9 Petitioner has articulated a theory upon which the evidence he seeks could support his claims
10 for relief. He is therefore entitled to engage in discovery which will permit him to develop the
11 necessary evidence to prove his claims.

12 The Court shall grant the discovery request as follows:

13 **IT IS THEREFORE ORDERED** that the motion for leave to conduct discovery and for
14 court order to obtain requested documents and evidence (docket #26) is **GRANTED**. Petitioner is
15 granted leave of the Court to serve subpoenas to obtain the following information:

16 Request 1: Access to all evidence held at the Evidence Vault of the Eighth Judicial District
17 Court introduced during Bedard's trial, Case No. C-145855, any forensic evidence to be released to
18 an expert employed by petitioner's counsel.

19 Request 2: Access to all evidence still in the possession of Las Vegas Metropolitan Police
20 Department collected in Bedard's case - including forensic evidence and reports, lab reports, DNA
21 reports, police reports, footwear impression evidence, including photographs, fingerprint exemplars
22 and other fingerprint evidence, any other evidence or report relating to petitioner's case/Event No.
23 970806-0466, any forensic evidence to be released to an expert employed by petitioner's counsel.

24 Dated this 20th day of July, 2009.



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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE